



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-084, C-570-085]

### **Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that imports of quartz slab manufactured in the People's Republic of China (China) and processed in Malaysia are covered by the scope of the antidumping duty (AD) and countervailing duty (CVD) orders on certain quartz surface products from China.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Ajay Menon or Paul Gill, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0208 or (202) 482-5673, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On February 7, 2022, Commerce published a notice self-initiating scope and circumvention inquiries to determine whether imports of quartz surface products completed in Malaysia using inputs manufactured in China are covered by the AD and CVD orders on certain

quartz surface products from China.<sup>1</sup> For a complete description of the events that followed the initiation, *see* the Final Scope Memorandum.<sup>2</sup>

### Scope of the *Orders*

The products covered by the *Orders* include certain quartz surface products from China.<sup>3</sup> Products subject to the *Orders* are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. Although the HTSUS subheading are provided for convenience and U.S. Customs purposes, the written description of the scope is dispositive.

### Merchandise Subject to the Scope Inquiry

This scope inquiry covers imports of quartz surface products processed in Malaysia using quartz slab manufactured in China.

### Methodology and Final Scope Ruling

Commerce conducted this scope inquiry in accordance with 19 CFR 351.225(k)(1). Specifically, as discussed in the Final Scope Memorandum, we find that, because the scope of the *Orders* explicitly covers quartz slab manufactured in China and finished, packaged, or otherwise fabricated in a third country, the Chinese quartz slab processed in Malaysia subject to

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<sup>1</sup> *See Quartz Surface Products from the People's Republic of China: Initiation of Scope and Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders*, 87 FR 6844 (February 7, 2022) (*Initiation Notice*); *see also Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 FR 33053 (July 11, 2019) (*Orders*).

<sup>2</sup> *See* Memorandum, “Quartz Surface Products from the People's Republic of China: Final Scope Ruling,” dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

<sup>3</sup> For a complete description of the scope of the *Orders*, *see* the Final Scope Memorandum.

this scope inquiry is covered by the scope of the *Orders* pursuant to 19 CFR 351.225(k)(1). A complete list of the issues discussed in the Final Scope Memorandum is contained in Appendix I.

#### Adverse Facts Available

Because certain interested parties did not cooperate to the best of their abilities in responding to Commerce's requests for information, we are basing part of our final determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). Specifically, the following companies did not respond to Commerce's requests for information in this scope inquiry: Bada Industries SDN BHD (Bada Industries); Ever Stone World SDN BHD (Ever Stone); Karina Stone; MSI Building Supply SDN (MSI); Principal Safwa (M) SDN (Principal); Resstone Manufacturing (Resstone); SCLM Services SDN BHD (SCLM); Unique Stone SDN BHD (Unique Stone); and Universal Quartz. Therefore, in accordance with sections 776(a) and (b) of the Act, we find that these companies are exporting to the United States certain quartz surface products processed in Malaysia containing quartz slab manufactured China. Moreover, as discussed further below, we deem these companies ineligible to participate in the scope certification process, we are establishing as part of this scope ruling. For a complete description of our AFA determination, *see* the Final Scope Memorandum.<sup>4</sup>

#### Scope Certification Process

Evidence on the record indicates that the companies which have fully participated in this scope inquiry have not used Chinese quartz slab as an input in the production of Malaysian quartz surface products. However, as noted above, certain companies failed to respond to Commerce's requests for information. Therefore, pursuant to 19 CFR 351.228, Commerce is implementing a certification requirement for all imports of quartz surface products from Malaysia. For further discussion, *see* the Final Scope Memorandum.

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<sup>4</sup> *See* Final Scope Memorandum at 3.

We determine that the following companies are not eligible for the scope certification process because, as noted above, they did not fully participate in the proceeding: Bada Industries; Ever Stone; Karina Stone; MSI; Principal; Resstone; SCLM; Unique Stone; and Universal Quartz. However, these ineligible companies may request reconsideration of their exclusion from the certification process in a future segment of the proceeding (*i.e.*, either through a changed circumstances review or an administrative review).<sup>5</sup>

#### Continuation of Suspension of Liquidation

As stated above, Commerce has found that imports of quartz surface products processed in Malaysia using quartz slab manufactured in China is merchandise covered by the scope of the *Orders*. As a result of this determination, and consistent with 19 CFR 351.225(l)(3), we intend to direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of Chinese quartz slab processed in Malaysia and to require a cash deposit of estimated AD and CVD duties at the applicable rates on unliquidated entries of merchandise subject to this inquiry that are entered, or withdrawn from warehouse, for consumption on or after November 4, 2021, the effective date of the *Final Rule*.<sup>6</sup> These suspension of liquidation and cash deposit requirements do not apply to imports of quartz surface products from Malaysia which are not produced from Chinese quartz slab, subject to the certification and documentation requirements described in Appendices II, III, and IV.

Specifically, if an importer of quartz surface products from Malaysia claims that the quartz surface products were not produced using Chinese quartz slab, to not be subject to cash deposit requirements the importer must meet the certification and documentation requirements

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<sup>5</sup> See, e.g., *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 84 FR 29164 (June 21, 2019), and accompanying Issues and Decision Memorandum, at 21-22; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Circumvention*, 84 FR 58130 (October 30, 2019), and accompanying Preliminary Decision Memorandum, at 6, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Determination of Anti-Circumvention Inquiry*, 85 FR 9737 (February 20, 2020).

<sup>6</sup> See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300, 52377 (September 20, 2021) (*Final Rule*).

described in Appendix II. An exporter of quartz surface products in Malaysia claiming its quartz surface products were not produced using Chinese quartz slab must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such quartz surface products must prepare and maintain an Importer Certification (*see* Appendix III) and documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of quartz surface products that do not contain Chinese-origin quartz slab.

If it is determined that the certification and/or documentation requirements in a certification have not been met (*e.g.*, where the importer/exporter cannot support its claim that the imported merchandise was produced from quartz slab that did not originate in China) or companies are not eligible for the certification process, Commerce will instruct CBP to suspend liquidation and require cash deposits for such entries. For AD cash deposits, Commerce will instruct CBP to require AD cash deposits equal to the China-wide rate, unless the importer/exporter can support its claim that the quartz slab was exported by a Chinese manufacturer with a company-specific separate rate. In that instance, the cash deposit rate will be the rate of the Chinese supplier of the quartz slab that has its own rate. For CVD cash deposits, Commerce will instruct CBP to require CVD cash deposits equal to the all-others rate, unless the importer/exporter can support its claim that the quartz slab was produced and/or exported by a Chinese manufacturer with a company-specific rate. In that instance, the cash deposit rate will be the rate of the Chinese supplier of the quartz slab that has its own rate. These suspension of liquidation and cash deposit requirements will remain in effect until further notice.

Finally, for quartz surface products produced from Chinese-origin quartz slab processed in Malaysia, Commerce has established third country case numbers in the Automated Commercial Environment (ACE). For quartz surface products exported from Malaysia that is merchandise covered by the scope of the AD/CVD *Orders* on quartz surface products from

China, where the country-of-origin changes for CBP's reporting purposes, importers should report such entries under the following third country case numbers: A-557-084 and C-557-085. The importer, producer, or exporter of quartz surface products in Malaysia using Chinese-origin slab should file a request in Enforcement and Compliance's electronic system, ACCESS, and on the record of the applicable administrative review proceeding, asking Commerce to establish a case number in the Automated Commercial Environment (ACE) for China that is specific to the Chinese supplier of quartz slab. CBP may also submit a request through the ACE AD/CVD Portal Inquiry System, for Commerce to establish company-specific third country case numbers for China.

#### Rescission of the Circumvention Inquiry

Pursuant to 19 CFR 351.226(f)(6)(ii), Commerce may rescind a circumvention inquiry where it has been determined that the merchandise at issue in the circumvention inquiry is covered by the scope of the AD or CVD order. Commerce in the *Initiation Notice* stated that it would first determine if the merchandise at issue is covered by the scope of the *Orders* before considering whether this merchandise is circumventing the *Orders*.<sup>7</sup> Because we have now determined that the scope of the *Orders* covers imports of quartz surface products completed in Malaysia using quartz slab manufactured in China, we are rescinding the circumvention inquiry.

#### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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<sup>7</sup> See *Initiation Notice*, 87 FR at 6845.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 781(a) and 777(i) of the Act, 19 CFR 351.225(f)(6), and 19 CFR 351.226(f)(6).

Dated: October 14, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **List of Topics Discussed in the Final Scope Memorandum**

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Scope Ruling
- V. Establishment of the Scope Certification Process and Application of Adverse Facts Available (AFA)
- VI. Circumvention Inquiry Recission
- VII. Analysis of Comments
  - Comment 1: Companies Eligible for the Certification Process
  - Comment 2: The Submission of Importer and Exporter Certifications
- VIII. Recommendation



## Appendix II

### Certification Eligibility and Requirements

#### A. Eligibility for the Certification

Importers and exporters of quartz surface products exported from Malaysia using quartz slab other than that manufactured in the People's Republic of China (China) are eligible for the certification process detailed below, with the exception of certain companies. The following companies are **not eligible to participate** in the certification process: Bada Industries SDN BHD; Ever Stone World SDN BHD; Karina Stone; MSI Building Supply SDN; Principal Safwa (M) SDN; Resstone Manufacturing; SCLM Services SDN BHD; Unique Stone SDN BHD; and Universal Quartz.

#### B. Certification Requirements for Importers and Exporters of Quartz Surface Products Exported from Malaysia Using Quartz Slab Not Manufactured in China

To import quartz surface products from Malaysia and declare them as exempt from the scope of the *Orders* and hence free of AD/CVD duties, the importer and the exporter must complete and maintain certifications, along with proof of where the quartz slab was manufactured. The importer, or the importer's agent, must upload **both the importer's certification and the exporter's certification** into the document imaging system (DIS) in the Automated Commercial Environment (ACE). The importer is required to complete and maintain the importer certification, attached as Appendix III, and retain all supporting documentation (*e.g.*, invoice, purchase order, production records, etc.). Where the importer uses a broker to facilitate the entry process, it should obtain and retain the entry summary number from the broker. Although agents of the importer, such as brokers, may upload the certification on behalf of the importer, they are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all

supporting documentation (*e.g.*, invoice, purchase order, production records, etc.). The party that made the sale to the United States should fill out the exporter certification.

For shipments and/or entries from November 4, 2021, through the date of publication of this notice in the *Federal Register*, importers and exporters should complete the required certification(s) no later than 60 days after the publication of this notice in the *Federal Register*. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads, “This certification was completed at or prior to the time of Entry Summary,” could be edited as follows: “The imports referenced herein entered before {insert day after the date of publication of the final scope ruling in the *Federal Register*}.” This certification was completed on **mm/dd/yyyy** {add date}, within 60 days of the *Federal Register* notice publication of the final determination of scope inquiry.” For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof. Entry summaries that were filed prior to the publication of the *Federal Register* notice must be amended to include these certifications to U.S. Customs and Border Protection (CBP) by uploading them into the DIS in ACE.

For any unliquidated entries (and entries for which liquidation has not become final) of quartz surface products exported from Malaysia that entered as non-AD/CVD type (*e.g.*, type 01) that were shipped and/or entered, or withdrawn from warehouse, for consumption in the United States after November 4, 2021, and that are ineligible for certification or that do not meet the certification requirements, importers should file a Post Summary Correction with CBP, in accordance with CBP’s regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.*, type 01 to type 03). Importers should report those AD/CVD type entries of merchandise under the AD/CVD case numbers for the *Orders* on quartz surface products, A-570-084/C-570-085 or A-557-084/C-557-085. The

importer must pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

For shipments and/or entries suspended pursuant to the final determination of this scope inquiry that were shipped and/or entered, or withdrawn from warehouse, for consumption within 60 days of the date of publication of the final scope determination in the *Federal Register*, for which certifications are required, importers and exporters should complete the required certification, as soon as practicable but not later than 60 days after the publication of the final determination in the *Federal Register*. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within this time frame. Specifically, exporters should complete the language in Paragraph I in the Exporter Certification that reads: This certification was completed on mm/dd/yyyy, within 60 days of the date on which Commerce published its final scope finding in the *Federal Register*.” For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof. The Exporter Certifications should be maintained by both the importer and exporter and should be provided to CBP or Commerce only upon request by the respective agency. The exporter must provide the importer a copy of the Exporter Certification within 60 days of the publication of the final scope determination in the *Federal Register*.

For shipments and/or entries on or after 60 days from the publication of the *Federal Register* notice for which certifications are required, importers should complete the required certification at, or prior to, the date of entry summary and exporters should complete the required certification and provide it to the importer at, or prior to, the date of shipment.

The importer and exporter are also required to maintain sufficient documentation supporting their certifications (*e.g.*, invoice, purchase order, production records, *etc.*). The importer is required to submit the certifications to U.S. CBP as part of the entry process by

uploading them into the DIS in ACE. Among other requirements detailed below, importers are required to maintain copies of certifications, as well as sufficient documentation supporting the certification for the later of: (1) a period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP.

In the situation where no certification is provided for an entry of quartz surface products, for AD cash deposits, Commerce will instruct CBP to require AD cash deposits equal to the China-wide rate, unless the importer/exporter can demonstrate the quartz slab was exported by a Chinese manufacturer with a company-specific separate rate. In that instance, the cash deposit rate will be the rate of the Chinese exporter of the quartz slab that has its own rate. For CVD cash deposits, Commerce will instruct CBP to require CVD cash deposits equal to the all-others rate, unless the importer/exporter can demonstrate that the quartz slab was produced and/or exported by a Chinese manufacturer with a company-specific rate. In that instance, the cash deposit rate will be the rate of the Chinese supplier of the quartz slab that has its own rate.

Quartz surface products not produced from Chinese slab are not subject to this inquiry and are not included within the scope of the *Orders* as a result of this affirmative final scope determination. Therefore, the suspension of liquidation and cash deposit requirements do not apply to such merchandise subject to the following certification requirements: An importer of quartz surface product from Malaysia claiming that its quartz surface products were produced from non-Chinese quartz slab must meet the certification and documentation requirements described in Appendices III and IV.

## Appendix III

### Importer Certification

I hereby certify that:

- A) My name is {INSERT COMPANY OFFICIAL’S NAME} and I am an official of {INSERT NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.
- B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the quartz surface products exported from Malaysia that entered under entry summary number(s), identified below, and which are covered by this certification. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own records. For example, the importer should have “direct personal knowledge” of the importation of the product (e.g., the name of the exporter) in its records.
- C) I have personal knowledge of the facts regarding the production of the imported products covered by this certification. “Personal knowledge” includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the country of the quartz slab used to produce the imported products);
- D) The quartz surface products exported from Malaysia do not contain quartz slab manufactured in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier;
- E) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller’s address:

Foreign Seller’s Invoice #:

Foreign Seller’s Invoice Line Item #:

Country of origin for QSP slab:

Name of slab producer:

Address of slab producer:

- F) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- G) I understand that failure to maintain the required certification and supporting documentation, failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping (AD)/countervailing duty (CVD) orders on quartz surface products from China. I understand that such a finding will result in:
  - i.) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

- ii.) the requirement that the importer post applicable AD and CVD cash deposits (as appropriate) equal to the rates determined by Commerce;
  - iii.) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of quartz surface products from Malaysia as not manufactured using quartz slab from China.
- H) I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- I) This certification was completed by the time of filing the entry summary; and
- J) I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

*Signature*

{NAME OF COMPANY}

{OFFICIAL TITLE}

{DATE}

## Appendix IV

### Exporter Certification

I hereby certify that:

- A) My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}.
- B) I have direct personal knowledge of the facts regarding the production and exportation into the Customs territory of the United States of the quartz surface products exported from Malaysia identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.
- C) The quartz surface products exported to the United States from Malaysia do not contain quartz slab manufactured in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.
- D) This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):  
  
Foreign Seller's Invoice # to U.S. Customer:  
Foreign Seller's Invoice to U.S. Customer Line item #:  
Country of origin for QSP slab:  
Name of slab producer:  
Address of slab producer:  
Producer's Invoice # to Foreign Seller: (If the foreign seller and the producer are the same party, put NA here.)
- E) The quartz surface products covered by this certification were shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- F) I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment.
- G) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- H) I understand that failure to maintain the required certification and supporting documentation, failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping (AD)/countervailing duty (CVD) orders on quartz surface products from China. I understand that such a finding will result in:
  - i.) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

- ii.) the requirement that the importer post applicable AD and CVD cash deposits (as appropriate) equal to the rates as determined by Commerce;
- iii.) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of quartz surface products from Malaysia as not manufactured using quartz slab from China.

I) This certification was completed at or prior to the date of shipment.

J) I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

*Signature*

{NAME OF COMPANY}

{OFFICIALTITLE}

{DATE}

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